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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,838	06/21/2005	Walter Hurler	LORWER P38AUS	8916
20210 7590 03/26/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
UNDERWOOD, DONALD W				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
03/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,838

Applicant(s)

HURLER, WALTER

Examiner

Donald Underwood

Art Unit

3652

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-29 and 31-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 062105
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

The drawing is objected to under 37CFR1.83(a) as failing to show vertical rails on the C-pillar (claim 34). Correction is required. The introduction of new matter should be guarded against.

In the specification, paragraph 008, line 3, the meaning of the phrase "ca. 2m." is unclear. Clarification is required.

Applicant has canceled claim 1 but the status of claims 2-22 is unclear since he does not clearly set forth whether these claims are canceled. Subsequent actions should clearly set forth the status of these claims. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 34 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is unclear how the rails are constructed and how they are related to the portal structure. It appears that the portal structure is attached to the lifting cylinders and the cylinders are mounted on the floor of the vehicle. See applicant's figure 1. Clarification is required. The introduction of new matter should be guarded against.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims depend from canceled claim 1 and are thus indefinite.

Claims 33, 34, 35, 38 and 41-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 33 and 38, "the C-pillar" lacks a clear antecedent basis rendering these claims indefinite.

Regarding claim 34, it is unclear what structure comprises the rails rendering this claim indefinite. Applicant should point out the structure in the detailed disclosure that comprises the rails. Moreover the cylinders appear to be mounted to the floor of the vehicle rendering the claim inaccurate.

Regarding claim 41, a ladder frame in this claim as well as loading boxes should be positively correlated with a loader frame and the at least one loading box in claim 38. Claim 41 as it stands is indefinite since these elements are not positively correlated.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 24, 33 and 37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Page.

Note section 9 in Page can be loaded from the rear and from the sides and element 15 serves as a door and ramp.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-29 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of French reference 1554461 cited by applicant.

It would have been obvious to provide roller doors on the end and sides of Page in view of the teaching in the French reference (note the doors in the French reference) to protect the load.

Regarding claims 33 and 34, the location of cylinders 8 in Page on instead of adjacent the vertical pillars would have been an obvious matter of design and/or choice since one arrangement provides no unobvious result over the other.

Regarding claim 35, note elements 13 in Page comprise portals.

Regarding claim 36, it would have been an obvious extension to provide ramps on the sides of 9 in Page similar to ramp 15 at the rear.

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of French reference 1554461 as applied to claim 27 above, and further in view of Kiehl, et al.

It is unclear what type of frame construction is used in the frame in Page; however, it would have been obvious to use any conventional frame structure including a ladder construction as taught by Kiehl.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Page in view of French reference 1554461 and Kiehl, et al. as applied to claim 41 above, and further in view of Brown.

It is unclear what type of bottom frame 3 and connection to frame 14 is used in Page; however, it would have been obvious to use any conventional arrangement including that taught by Brown (figure 6).

Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/
Primary Examiner, Art Unit 3652

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